IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6413 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UDAY UTTAR BUNIYADI VIDHYALAYA - Petitioner(s)
Versus
STATE OF GUAJRAT THR' CHIEF SECRETARY & 2 - Respondent(s)

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Appearance :
MR MANISH J PATEL for Petitioner(s) : 1,
MS REETA CHANDARANA, AGP for Respondent(s) : 1,2,3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 26/06/2006

ORAL JUDGMENT

1. Rule. Learned AGP Ms. Reeta Chandarana, waives service of notice of rule on behalf of

respondents. At the request of learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. The petitioner has challenged the action of respondents in proceeding further with the recovery of grant paid to the petitioner pursuant to an order dated 25-1-2005. It is the case of the petitioner to which there is no denial by the respondents that against the order dated 25-1-2005, the petitioner has already preferred an appeal before the State Government and such an appeal is pending.

3. Learned advocate Shri Patel for the petitioner submitted that the Government issued a circular dated 23-8-2002, copy of which is produced on record which provides that when appeal is pending against the order for recovery of grant, till the appeal is decided, the recovery against the school should be stayed.

4. In view of the above circular in facts of the

present case, it is directed that till the appeal filed by the petitioner against order dated 25-1-2005 is disposed of, respondents shall not effect recovery pursuant to such order. It is always open for the respondents to hear the appeal expeditiously and pass appropriate order thereon.

5. With these directions, the petition is disposed of. Rule made absolute to the above limited extent with no order as to costs.

(Akil Kureshi,J.)

(raghu)